

1914

## c 44 Tile Drainage Act

Ontario

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## CHAPTER 44.

## An Act respecting Tile, Stone and Timber Drainage Debentures.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:—

Short title.

1. This Act may be cited as *The Tile Drainage Act*, 9 Edw. VII. c. 22, s. 1.

Borrowing powers of Councils.

2.—(1) The council of a town, village or township may pass by-laws, Form 1, for borrowing for the purposes hereinafter mentioned, in sums of not less than \$2,000, and not exceeding \$10,000, such amount as they may deem expedient, and for issuing therefor debentures of the municipality, Form 2, in sums of \$100 each, payable within twenty years from the 1st day of August in the year in which the money is borrowed from the municipality as is hereinafter provided, and bearing interest at the rate of four per centum per annum, and it shall not be necessary to obtain the assent of the electors to any such by-law before the passing thereof.

Limit of borrowing power.

(2) The amount of the indebtedness of the municipality in respect of money so borrowed and remaining unpaid, including the amount provided for in any by-law being passed, shall not at any time exceed \$10,000; nor shall a by-law be passed except at a meeting of the council specially called for the purpose of considering it, and held not less than four weeks after a notice, Form 3, of the day appointed for the meeting has been published in such newspaper as the council by resolution may direct. 9 Edw. VII. c. 22, s. 2.

Special meeting for considering by-law.

Publication of by-law.

3.—(1) After the passing of the by-law a copy of it shall be published in such public newspaper, published in the municipality or in the county town or in an adjoining or neighbouring municipality, as the council may by resolution designate, and in at least one number of such newspaper each week for three successive weeks.

Notice to be appended.

(2) To each copy of the by-law shall be appended a notice, Form 4.

When by-law to be valid.

(3) If notice of an application to quash the by-law or any part thereof is not given within twenty days after the last publication under this section, or, if such notice is given, and the application is not made within one month after such last publication, the by-law shall not be questioned in any

court and shall be valid and binding according to the terms thereof. 9 Edw. VII. c. 22, s. 3.

4. The debentures may be issued and sold by the municipality from time to time, for the purpose only of lending the proceeds thereof for tile, stone or timber drainage, as hereinafter provided, as money is required for the purpose. 9 Edw. VII. c. 22, s. 4.

5. The debentures shall be made payable to the Treasurer of Ontario, or his order, and shall have twenty coupons attached, each of which shall be for the sum of seven dollars and thirty-six cents. 9 Edw. VII. c. 22, s. 5.

6.—(1) The council, after the expiration of one month from the last publication under section 3, may deposit with the Treasurer of Ontario a copy of the by-law, with affidavits of the head and clerk of the municipality, Forms 5 and 6, and may at any time thereafter apply for the purchase by the Province of the debentures authorized thereby.

(2) The application shall be sealed with the seal of the municipality and signed by the head thereof, and shall specify the names of the persons to whom the money is to be lent. 9 Edw. VII. c. 22, s. 6.

7. The Treasurer of Ontario shall investigate and report to the Lieutenant-Governor in Council as to the propriety of all proposed investments in the order in which the applications therefor are received. 9 Edw. VII. c. 22, s. 7.

8.—(1) A person assessed as owner, and being the actual owner of land in the municipality, desiring to borrow money for the purpose of tile, stone or timber drainage may make application, Form 7, to the council.

(2) The application shall not be acted upon unless it is accompanied by a declaration of the applicant stating that he is the actual owner of the land mentioned in the application, and that the same is free from encumbrance, or if the land or any part of it is mortgaged or otherwise encumbered, stating the name and address of the mortgagee or encumbrancer, and, where it has been assigned, the name of the assignee of the mortgage or encumbrance with his address. 9 Edw. VII. c. 22, s. 8 (1-2); 3-4 Geo. V. c. 17, s. 1.

(3) Where it appears that there is a mortgage or encumbrance upon the land or any part of it the application shall not be disposed of until two weeks after the mortgagee, encumbrancer or assignee has been notified of the application by registered letter, sent to him by the clerk to his last known address. 9 Edw. VII. c. 22, s. 8 (3).

9. If the application is granted the council may issue debentures for such sum within the amount authorized by

this Act and by the by-law of the municipality, as they may deem proper, but not exceeding the sum applied for, nor exceeding seventy-five per centum of the estimated cost of such drainage. 9 Edw. VII. c. 22, s. 9.

Limit of  
purchase by  
Province.

**10.** The Lieutenant-Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any time \$200,000 in the purchase of debentures issued under such by-laws in respect of which the Treasurer of Ontario shall have certified to the propriety of the investment. 9 Edw. VII. c. 22, s. 10.

Debentures  
declared un-  
questionable.

**11.** After such investment, the debentures shall not be questioned in any court and shall be valid and binding according to the terms thereof. 9 Edw. VII. c. 22, s. 11.

Application  
of proceeds  
of loans.

**12.**—(1) The council shall lend the money so borrowed only for the purpose of tile, stone or timber drainage and for a term of twenty years, in sums of one or more hundreds of dollars to persons entitled to borrow.

Who may  
borrow.

(2) No part of the money so borrowed shall be lent to any member of the council, but a person having so borrowed from a municipality shall not by reason thereof be disqualified from being afterwards elected a member of the council. 9 Edw. VII. c. 22, s. 12.

Limit of  
amount to be  
loaned.

**13.**—(1) The council shall not lend to any person a sum which will require the levying of a greater annual rate for all purposes, exclusive of school rates, than three cents in the dollar upon the value of the land in respect of which the money is borrowed.

Value of land  
how determin-  
ed.

(2) For the purposes of this section the value of the land shall be determined by the last revised assessment roll, and the general annual rate by the general rate imposed for the year in which the money is borrowed from the municipality.

Limit of  
loan to  
individual.

(3) Not more than \$1,000 shall be lent to one person. 9 Edw. VII. c. 22, s. 13.

Order in which  
loans are to be  
granted.

**14.** The council shall consider the applications in the order in which they are made, and shall lend the money in the same order to the persons whose applications shall have been approved. 9 Edw. VII. c. 22, s. 14.

Appointment  
of Inspector.

**15.** A council borrowing money under this Act shall employ a competent inspector of drainage, the cost of whose services and whose expenses shall be apportioned rateably against the works carried on under his inspection, and shall be paid by the council out of the money borrowed. 9 Edw. VII. c. 22, s. 15.



**16.**—(1) On the completion of any drainage works under his charge the inspector shall report to the council the number of rods of drain constructed on each lot or parcel of land, the cost per rod, and such other particulars as may be required by the council. Inspector's report.

(2) The report shall be entered in a book provided by the council, and the money shall not be advanced by the council until the report of the due completion of the work has been so made. 9 Edw. VII. c. 22, s. 13. Record.

**17.** The council shall impose by by-law, Form 8, and shall levy and collect for the term of twenty years, over and above all other rates upon the land in respect of which the money is lent, a special annual rate of seven dollars and thirty-six cents for each \$100 lent; and the rate shall be collected in the same manner as other special rates imposed under *The Municipal Act*. 9 Edw. VII. c. 22, s. 17. By-law imposing rate.

**18.** The owner of land, in respect of which money has been borrowed, may at any time obtain the discharge of the indebtedness by paying to the treasurer of the municipality the amount borrowed, with interest thereon at the rate of four per centum per annum less any sum already paid on account of principal and interest; and upon the same being paid to the treasurer, he shall forthwith transmit it to the Treasurer of Ontario, who shall apply it towards payment of the debentures of the municipality. 9 Edw. VII. c. 22, s. 18. Discharge of indebtedness by owner.

**19.** A council which has borrowed money shall, on or before the 15th day of January in each year, make a return to the Provincial Secretary, showing, for the year which ended on the 31st day of December next preceeding, the amount expended in drainage, the number of rods of drain constructed, the names of the borrowers, the land upon which the money has been lent, the names of the persons whose applications have been refused and the reasons in each case for the refusal. 9 Edw. VII. c. 22, s. 19. Returns to Lieutenant-Governor in Council by Municipal Council.

**20.**—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario within one month after the same became payable, together with interest at the rate of seven per centum per annum during the time of any default in payment. Repayment by municipality to Province.

(2) In case of a continuance of such default the council, in the next ensuing year or as the case may require, shall assess and levy on the whole rateable property within its jurisdiction, in the same manner in which taxes are levied for the general purposes of the municipality, a sum over and above the other valid debts of the corporation falling due within the year sufficient to enable the treasurer to pay the Consequence of default in payment.

amount in arrear, together with interest thereon at the rate of seven per centum per annum, from the time the same became payable until payment whether or not the same has been previously paid by or recovered from the persons or lands chargeable therewith.

How arrears  
ranked as  
a charge.

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-law they may have been raised.

Duty of  
municipal  
treasurer after  
default.

(4) No treasurer or other officer shall after such default pay out of the funds of the municipality any sum except for the ordinary current disbursements, and salaries of clerks and other employees of the municipality or debts due to the Province until the amount so in arrear and the interest has been paid to the Treasurer of Ontario.

Liability of  
municipal  
officers.

(5) If such municipal treasurer or other officer pays any sum contrary to the provisions of the next preceding subsection, in addition to any criminal liability which he may thereby incur, he shall be personally liable for every sum paid as for money had and received by him for the Crown.

Penalty for  
violation.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be violated shall also be personally and individually liable for the full amount so in arrear and the interest, to be recovered as for money had and received by him for the Crown.

Liability of  
lands to  
municipality  
not affected.

(7) No assessment, levy or payment made under this section shall exonerate the persons or lands chargeable under the by-law from liability to the municipality. 9 Edw. VII. c. 22, s. 20.

Regulations  
and forms.

21. The Lieutenant-Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act; and, subject thereto, the forms in the schedule hereto shall be used. 9 Edw. VII. c. 22, s. 21.

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## SCHEDULE.

## FORM 1.

## (Section 2.)

## FORM OF BY-LAW.

*By-law No.*

A by-law to raise \$ \_\_\_\_\_ to aid in the construction of tile,  
stone or timber drains.

The Council of the Municipality of \_\_\_\_\_, pursuant to the provisions of *The Tile Drainage Act*, enacts as follows:

1. That the Reeve (or Mayor) may from time to time, subject to the provisions of this by-law, borrow on the credit of the corporation of the said Municipality such sum not exceeding in the whole \$ \_\_\_\_\_, as may be determined by the Council, and may in manner hereinafter provided, issue debentures of the said corporation in sums of \$100 each for the amount so borrowed, with coupons attached as provided in section 5 of the said Act.

2. That when the Council shall be of opinion that the application of any person to borrow money for the purpose of constructing a tile, stone or timber drain should be granted in whole or in part, the Council may, by resolution, direct the Reeve (or Mayor) to issue debentures as aforesaid, and to borrow a sum not exceeding the amount applied for, and may lend the same to the applicant on the completion of the drainage works.

3. A special annual rate shall be imposed, levied and collected over and above all other rates upon the land in respect of which the said money shall be borrowed, sufficient for the payment of the principal and interest as provided by the Act.

Passed the \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_\_

A. B.,  
Reeve (or Mayor).

C. D.,  
Clerk.

(Corporate  
seal.)

9 Edw. VII. c. 22, Form 1, Sched.

## FORM 2.

## (Section 2.)

## FORM OF TILE DRAINAGE DEBENTURE.

\$100.

No.

Drainage Debenture of the \_\_\_\_\_ of \_\_\_\_\_,  
The Corporation of the \_\_\_\_\_, in the County of \_\_\_\_\_  
hereby promises to pay to the Treasurer  
of Ontario or order at the Bank of \_\_\_\_\_ in the \_\_\_\_\_  
of \_\_\_\_\_, the sum of \$100 of lawful money of Canada, and interest  
thereon at five per cent. in twenty equal annual instalments of

\$7.36 each, the first of such instalments to be paid on the  
 day of 19 , pursuant to by-law No. .  
 intituled "A by-law to raise \$ , to aid in the construc-  
 tion of tile, (stone or timber) drains."  
 (Corporate seal.)

A. B.,  
 Reeve (or Mayor).

G. H.,  
 Treasurer.

## FORM OF COUPON.

Coupon for twentieth Annual Instalment of Drainage Debenture No. 1, issued under By-law No. of the of \$7.36 payable at the Bank of in the of on day of 19 . A. B., G. H., Reeve (or Mayor). Treasurer.
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9 Edw. VII. c. 22, Form 2, Sched.

## FORM 3.

(Section 2.)

## NOTICE OF MEETING TO CONSIDER BY-LAW.

Take notice that a by-law for raising \$ under the  
 provisions of *The Tile Drainage Act*, will be taken into considera-  
 tion by the Municipal Council of the  
 of at the of , on the day  
 of , 19 , at the hour of o'clock in the  
 noon.

C. D.,  
 Clerk.

9 Edw. VII. c. 22, Form 3, Sched.

## FORM 4.

(Section 3.)

## NOTICE.

## Municipality of the of

Take notice that the above is a true copy of a By-law passed by  
 the Municipal Council of the of  
 on the day of 19 , and all persons  
 are required to take notice that any one who desires to apply to  
 have such by-law or any part thereof quashed must serve notice  
 of his application upon the Head or Clerk of this municipality  
 within twenty days after the date of the last publication of this  
 notice, and must make his application to the Supreme Court of On-  
 tario within one month after the said date. This notice was first  
 published on the day of , 19 , and the last  
 publication will be on the day of 19 .

A. B.,  
 Clerk.

9 Edw. VII. c. 22, Form 4, Sched.



## FORM 5.

(Section 6.)

### AFFIDAVIT OF HEAD OF MUNICIPALITY.

County of \_\_\_\_\_ } I, \_\_\_\_\_ of the \_\_\_\_\_  
to wit: } of \_\_\_\_\_ in the County of \_\_\_\_\_

Reeve (or Mayor) of the \_\_\_\_\_ of \_\_\_\_\_ make  
oath and say:

I have not been served with any notice of intention to make application to quash a by-law passed on the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, by the Municipal Council of the said \_\_\_\_\_ of \_\_\_\_\_ No. \_\_\_\_\_ intitled (*insert the title of by-law*), nor have I been served with any notice of intention to make application to quash any part of the by-law, nor with any notice to that or the like effect.

Sworn, etc.

A. B.

9 Edw. VII. c. 22, Form 5, Sched.

## FORM 6.

(Section 6.)

### AFFIDAVIT OF CLERK.

County of \_\_\_\_\_ } I, \_\_\_\_\_ of \_\_\_\_\_  
 TO WIT: } in the County of \_\_\_\_\_  
 Clerk of the said }  
 oath and say: } make

1. On the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_,  
the Municipal Council of the said \_\_\_\_\_ of \_\_\_\_\_  
at a meeting specially called for that purpose passed a by-law for  
borrowing money to be lent for the construction of tile, stone or  
timber drains, being No. \_\_\_\_\_ and intituled (*insert title  
of by-law*), a copy of which certified by me is now shown to me  
marked "A."

2. Notice of the meeting was given by publication on (insert here the dates of publication) in the (insert names of newspapers), copies of which newspapers are shown to me and marked "B," "C," and "D."

3. A notice, a copy of which is now shown to me marked "E," was published on (insert here the dates of publication), in the (insert name of newspaper), being the newspaper in which the Council did by resolution direct the publication thereof, copies of which newspaper containing the said notice are now shown to me and marked "E," "G," and "H."

4. I have not been served with any notice of intention to make application to quash the said by-law, or any part thereof, nor with any notice to that or the like effect.

Sworn, etc.

*C. D.*,

9 Edw. VII. c. 22, Form 6, Sched.

## FORM 7.

(Section 8.)

## APPLICATION FOR LOAN.

To the Municipal Council of  
 I, *E. F.*, owner of (if part state what part) lot No. \_\_\_\_\_ in  
 Concession of the Township of \_\_\_\_\_ (or as  
 the case may be) apply for a loan of \$ \_\_\_\_\_ to assist in  
 the construction of \_\_\_\_\_ rods of  
 drain, on the said land. The proposed depth of drain is  
 inches, the proposed size of tile is \_\_\_\_\_ inches (1).  
*E. F.*

(1) If the proposed drain is to be stone or timber for the words  
 "size of tile" substitute the words "inside size of drain."

9 Edw. VII. c. 22, Form 7, Sched.

## FORM 8.

(Section 17.)

## BY-LAW IMPOSING A RATE.

By-law imposing a Special Drainage rate upon Lot \_\_\_\_\_ in the  
 Concession.

Whereas *E. F.*, the owner of (if part state what part) Lot \_\_\_\_\_ in  
 the Concession of the Township of \_\_\_\_\_ (or as the case may  
 be), applied to the Municipal Council of the said Township under  
*The Tile Drainage Act*, for a loan for the purpose of draining the  
 said land; And whereas the said Council has, upon his said appli-  
 cation, lent the said *E. F.*, the sum of \$1,000 (or as the case may  
 be), to be repaid with interest by means of the rate hereinafter  
 imposed:

Be it therefore enacted, by the said Municipal Council, that an  
 annual rate of \$73.60 per annum (or as the case may require,  
 namely, \$7.36 for every \$100 lent), is hereby imposed upon the said  
 land for a period of twenty years, such rate to be levied and col-  
 lected at the same time and manner as ordinary taxes are levied  
 and collected.

Passed this \_\_\_\_\_ day of \_\_\_\_\_ 19 \_\_\_\_  
 (Corporate  
 seal.)

*A. B.*,  
 Reeve (or Mayor).  
*C. D.*,  
 Clerk.

9 Edw. VII. c. 22, Form 8, Sched.